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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-2404**

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**STATEMENT FOR THE RECORD**

**Hearing On "Five Years After Katrina: Where Are We And What Have We Learned For  
Future Disasters"**

**Subcommittee on Economic Development, Public Buildings, and Emergency Management  
Committee on Transportation and Infrastructure**

**September 22, 2010**

Thank you, Chairwoman Norton, for holding another hearing on Hurricane Katrina. I appreciate your help in the past to get FEMA to address some of our concerns in Mississippi. It is unfortunate that your bill that the House passed in 2007 did not become law because I believe that it would have sped up the recovery of cities and school districts on the Gulf Coast.

Five years after Hurricane Katrina, we still have several obstacles to the recovery on the Mississippi Gulf Coast. The focus of this hearing is on FEMA's Public Assistance program, but before getting into that, I would like to briefly go over a few other items.

Shortly after Katrina, Congress funded Special Community Disaster Loans (SCDL) to help the devastated local governments cover their payroll and operating expenses. At the time, the Republican House Leadership insisted on language that the SCDL loans could not be cancelled, even though the statute normally provides that they can be cancelled if a local entity has not recovered three years later.

When the Democrats gained the majority in 2007, Majority Whip Jim Clyburn introduced a bill that I cosponsored that would reinstate the three-year cancellation rule and also waive the local matching funds for FEMA Public Assistance projects. The Bush Administration has reduced the local match from 25 percent to 10 percent, but the communities in Mississippi and Louisiana that had been wiped out were not going to be able to pay 10 percent of every project and probably were not going to be able to repay the Community Disaster Loans.

The House included both of these provisions in our version of the 2007 Supplemental Appropriations Act and Rep. Clyburn convinced the Bush Administration to accept them in the final bill. The elimination of the matching funds on Public Assistance projects has saved local governments hundreds of millions of dollars.

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It took FEMA until January 2010 to publish the final rule for the cancellation of the Special Community Disaster Loans. In August FEMA made its initial determinations. FEMA has bungled yet another simple assignment.

The intent of the statute is very clear. If after three years, a local entity has not recovered to the point that its revenues are sufficient to cover its normal operating costs, then it is eligible for full or partial cancellation of the loans. Somehow FEMA has interpreted this simple statute in a way that denied cancellation to several school districts, cities, and counties that are still dependent on FEMA and other federal assistance to pay some of their operating costs. I would think that by definition, if a local entity needs the federal government to pay some of its costs, then it has not recovered.

In the case of school districts, it appears that FEMA made the ridiculous decision to count the Restart grants from the Department of Education as revenues. The Immediate Aid to Restart School Operations was one-time supplemental assistance to help with the costs of reopening the schools that had been forced to close. Those funds are not part of the regular revenue base of the local schools and should not be counted for the purpose of determining whether the school district has recovered and can repay the SCDL. Someone with a little common sense needs to fix this. It should not take an act of Congress.

In the case of cities, it appears that some cities have been punished because their box stores were able to open before the stores in other cities, so they had a one-time surge in sales taxes from reconstruction activity. I urge FEMA to examine these cases and apply the intent of the statute to determine whether the local entity is truly self-sufficient.

Cities and school districts on the Mississippi Gulf Coast have not fully recovered because we have thousands of vacant lots that should have single-family homes on them. Those single-family homes and many locally-owned small businesses will not return until Congress enacts insurance reform. There is no competitive market for insurance on the Mississippi Gulf Coast. The cost of windstorm coverage on the coast is several times higher than what is needed to pay the claims, yet the insurance companies are not writing new policies. In some cases, the monthly insurance premiums are as high as the mortgage payment. These high insurance costs are the largest remaining obstacle to Mississippi's recovery from Katrina.

I have addressed this issue at length in hearing testimony, letters, statements, and in debate on the House floor. My legislation, the Multiple Peril Insurance Act, would create an option for property owners to buy both wind and flood insurance from the National Flood Insurance Program. The wind coverage would be priced at actuarial rates so that the program pays for itself. This program would allow homeowners to buy insurance and know that hurricane damage would be covered without delays and disputes over what was caused by wind and what was caused by flooding.

The federal hurricane coverage also would be more efficient than state-by-state wind pools because it would spread the risk geographically. The Mississippi wind pool concentrates the risk in three counties where every policy could be affected by a single storm. That is the

worst possible way to cover hurricanes. Insurance only works economically if the risk is spread and diversified.

My legislation passed the House in 2007 but failed in the Senate. The Obama Administration came out against it before showing any interest or understanding of the coastal insurance market or of the Katrina claims practices that allowed insurance companies to bill some of their wind losses to the federal flood program. I am still waiting for the opponents of my bill to propose a reasonable alternative that would address the wind-water dispute and would provide reasonably-priced wind insurance. We are not asking for any subsidy. Coastal homeowners need insurance competition and protection from the anticompetitive practices of the insurance and reinsurance industries.

I want to make one last point before I address the problems with FEMA's Public Assistance program. Most of my colleagues in Congress and most of the country probably are not aware of the mitigation actions that Mississippians have taken to reduce future hurricane and flood damage. We have implemented new flood insurance maps that raised the elevation requirements for new construction by as much as 8 to 10 feet. Our elevation requirements now are higher than any other coastal state.

Thousands of homes and businesses have been elevated or constructed to the new elevations using NFIP Increased Cost of Compliance coverage, FEMA mitigation grants, or the property owners' own funds. Hundreds of flood-prone properties have been bought out using FEMA mitigation grants or Corps of Engineers coastal restoration funds.

Many more low-lying properties could have been bought out if the FEMA Hazard Mitigation Grant Program was better designed. FEMA is not allowed to go in unilaterally and buy a flood-prone property, even from a willing seller. The current rules require that the projects be initiated by the local government, negotiated by the local government, and have cost-share requirement for the state and local government. After a major disaster, local governments do not have the money to pay matching funds and do not have the resources to devote to the property negotiations, cost-benefit analysis, and other requirements to implement a buy-out. FEMA needs to have limited authority to go in after a major disaster and use 100% federal funds to buy out repetitive loss properties.

Four years ago, Rep. Charlie Melancon and I announced the recommendations of the Katrina Task Force of the Democratic Caucus. We had been appointed by Minority Leader Nancy Pelosi and Caucus Chairman Jim Clyburn to confer with our colleagues and our constituents and then propose policies to improve the recovery in our states.

At the time, our first point was that Hurricane Katrina was too big for FEMA and the Stafford Act. The rules in place might work in places that had reparable damage and needed temporary assistance, but in the cities and counties and parishes that were devastated, we needed much more flexibility, more resources, more technical assistance, and more expertise than FEMA was willing or able to offer.

FEMA insisted on making every public building, every street, every water line, and every sewer line a separate project to be haggled over for years. The result has been thousands of examples of “penny-wise, but pound-foolish” actions where FEMA delayed the reconstruction of essential facilities and infrastructure for years, disputing a few hundred thousand dollars on individual projects. The result of FEMA’s inaction cost taxpayers billions of dollars in disaster assistance by delaying the overall recovery. The water and sewer systems, the schools, and other public facilities needed to be the first things rebuilt because those services would allow local residents and business owners to return and rebuild.

Our Katrina Task Force Report also urged Congress and the Bush Administration to fully engage other federal agencies in the recovery. We have a federal Department of Housing and Urban Development yet they did not join the housing recovery or the urban development recovery until Senator Thad Cochran inserted an earmark that forced HUD to allocate billions of dollars of Community Development Block Grants. Even then, HUD never offered the technical assistance and planning guidance that could have accelerated the housing recovery and could have freed local communities from the quagmire of FEMA’s slow-motion building-by-building procedures.

Similarly, we needed the Department of Education to help develop and approve plans for recovery of the schools and we needed the Department of Health and Human Services to take more interest in restoring health care services. Those agencies did allocate grants that were earmarked into Supplemental Appropriations bills by Congress, but they never showed up to offer the expertise that was badly needed.

As a result, the public schools and other public facilities were forced to slog through thousands of FEMA project worksheets, in many cases wasting two or three years arguing over a whether a damaged building could be repaired or should be rebuilt. If FEMA finally agreed that the building should be rebuilt, then there would be a lengthy dispute over whether it should be built exactly as it was or if instead the new building could be built to current needs and standards. In many cases, there was a side argument about whether to rebuild on the old site or relocate to a new site.

FEMA’s default position is that it will only reimburse to replace exactly what was there before, but after Katrina it would have been stupid to spend billions of dollars restoring inadequate and obsolete facilities, and constructing replicas of buildings that did not comply with current codes, accessibility standards, energy efficiency practices, or security requirements. FEMA’s position made it almost impossible to consolidate two or more old buildings into a new and better building.

I made these same points when I testified at the hearing held by this subcommittee in May of 2007. Later that year, the House later passed a bill that included some of my recommendations. The House bill would have forced FEMA to accept alternate projects so that schools could have been built to the highest standards. Unfortunately, the Senate was not able to pass a comparable bill, so our legislation did not become law.

If any researcher is looking for a case study of how FEMA's compliance-zealot culture works at cross purposes with its primary mission to facilitate recovery, I recommend a review of FEMA's interactions with the Bay St. Louis-Waveland School District over the past five years.

The cities of Bay St. Louis and Waveland were devastated by Katrina. Every school in the Bay-Waveland district was either destroyed or substantially damaged, and the property tax base was wiped out. Bay-Waveland School District is a prime example of why we need the federal government to help rebuild public facilities and restore public services after a catastrophe. Restoring devastated school districts should be one of FEMA's most important missions. Yet, over and over and over again, the school district has had to fight with FEMA over debris removal rules, damage estimates, reconstruction costs, building standards, code requirements, and every other action or proposal.

The Bay-Waveland School District has had a severe shortfall in local revenues for the past five years. The central office is still located in trailers. The district has had to cut staff, delay technology purchases, and raise student fees. The districts utility and insurance costs have increased by 60 percent since Katrina. Yet, FEMA ruled that the district did not qualify for cancellation of its \$7 million Special Community Disaster Loan because it received supplemental Restart funds from the Department of Education.

With that history, it should not be surprising that one of the first big arbitration cases involved the Bay-Waveland School District. Congress and the Obama Administration established a FEMA arbitration process to resolve remaining Katrina and Rita public assistance disputes in the American Recovery and Reinvestment Act of 2009. The Bay-Waveland School District had requested replacement costs of \$7 million for damages at three schools. FEMA claimed that the damages could be repaired for only \$176,000. The U.S. Civilian Board of Contract Appeals awarded the full \$7 million to the school district. This case reinforces my opinion and the opinion of our local officials that FEMA was not being reasonable all these years.

I wish that I could say that FEMA has learned the lessons of Katrina and is much better prepared for future disasters, but I do not see the evidence of that. FEMA still needs substantial management and oversight reforms. FEMA personnel need to be evaluated on the speed and efficiency of their recovery missions instead of the current system that appears to reward those who delay and deny recovery projects.